



Insurance & Real Estate Committee

Raised Bill 14, An Act Concerning Pharmacy Audits and Electronic Funds Transfer Payments to Pharmacies February 18, 2014

Senator Crisco, Representative Megna, and the Distinguished Members of the Insurance and Real Estate Committee:

My name is David Benoit. I am here to testify in **support of Raised Bill 14, An Act Concerning Pharmacy Audits and Electronic Funds Transfer Payments to Pharmacies**. I am a pharmacist and currently am employed as Vice-President of Patient Care Service for Northeast Pharmacy Service Corporation, a buying group (GPO) representing the majority of independent pharmacies in Connecticut. I have been involved with contracts for prescription drug programs for nearly twenty years. I have been involved with numerous audit disputes. And while many are fair and reasonable, the ones that are not can be outrageous. There are many good reasons why this legislation is a good idea and will result in more fair and equitable audits. According to the National community Pharmacists Association, twenty states have rules governing pharmacy audits by prescription benefit managers (PBMs).

Audit abuses abound. The most troublesome audits occur on site. An auditor, who should have provided at least two weeks' notice of the audit and information about the claims to be reviewed, should appear on time, as scheduled. The pharmacy should have made preparations for the audit including preparing the claims of interest, the signature logs, other requested documentation, and be certain to have extra staff. You can see that when the pharmacy cannot adequately prepare, much expense and resources are wasted. This can also lead to frivolous findings.

Every pharmacy transaction has a very "real" cost of goods. The medicines themselves cost a lot of money. In a typical 30-day prescription, the medicine itself is over 75% of the transaction. In the case of maintenance medications and 90-day supplies, the cost of medication can be more than 90% of the transaction. Recovery of the whole transaction and all of the refills should be set aside for serious infractions only. Audits should be administrative endeavors designed to detect and prevent fraud, waste, and abuse.

When recoveries are ultimately made, they should be reported and returned to the plan sponsor who paid for the claims in the first place. Audits should not be a new revenue stream for the PBM, its audit department, or their subcontractors. Arbitrary audit



recoveries ultimately cost Connecticut jobs and tax revenue as proceeds are removed from its economy.

PBMs should not be allowed to decide what is a legitimate prescription; this is the State's prerogative and should remain exclusively so. For instance, both state and federal governments encourage electronic prescribing of prescription medications. It is widely agreed that electronic prescriptions provide superior quality and safety over handwritten prescriptions. Yet, there are PBM audits, which have challenged the validity of electronic prescriptions, insisting that only paper prescriptions are acceptable. This finding alone can put a pharmacy in the position of having to defend themselves against tens of thousands of dollars in a potential audit recovery.

As pressure has mounted for pharmacies to provide prescription drugs on ever more competitive reimbursements, pharmacies have become busier and busier places. It is not always easy for the pharmacy to make time to talk to patients, as many of you know. It is easy to make clerical errors and typos when hundreds of prescriptions are being filled for patients the pharmacists may know well. Prescriptions come in on pieces of paper, by fax, by phone, electronically from the doctor to the pharmacy, from the nursing home on Medication Administration Records, as transfers from and to other pharmacies – and more.

The point is that the patients get the right medicine almost every time despite all the confusion and chaos that surrounds the pharmacy. The PBMs and auditors should not be able to profiteer on pharmacies and create additional arbitrary requirements to increase the chaos. There should be a reward for providing medications to patients in the midst of this administrative hubbub. The country's largest prescription drug payer, CMS on behalf of Medicare D has many rules about making certain that the patient gets medicine even when the details are not complete. Further, CMS requires that the claims be corrected, not recovered.

In addition, CMS has required EFT payments to any pharmacy that requests electronic payments. It is time to move beyond a time when the "check was in the mail." EFT payments are reliable, secure, inexpensive, modern, and weather and location –proof.

Why can't that be the law across the board? Patients should come first. That deserves a reward. It shouldn't be a mechanism to enrich public corporations that administer prescription drug programs.

The Prescription Benefit Management companies are very powerful and many of the terms of their contracts are not negotiable. Legislation is needed to "fix" some important flaws. There should be consistency across PBMs for audits and payments.

Please vote favorably on Raised Bill 14, An Act Concerning Pharmacy Audits and Electronic Funds Transfer Payments to Pharmacies.